LIBRARY
SUPREME COURT, U. S.

Office-Supreme Court, U.S.
FILED
JUN 16 1969
JOHN F. DAVIS, CLERK

IN THE

SUPREME COURT OF THE UNITED STATES.

..... TERM, 1969.

No. [redacted] 247

JESSE EARL MILLER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Eighth Circuit.

DANIEL P. REARDON, JR.,
7 North Seventh Street,
St. Louis, Missouri 63101,
Attorney for Petitioner.

ST. LOUIS LAW PRINTING CO., INC., 411-15 N. Eighth St., 63101. CEntral 1-4477.

INDEX.

	Page
Prayer	1
Opinion below	1
Jurisdiction	2
Question presented	2
Statement	3
Reasons for granting the writ	6
Conclusion	10
Appendix:	
A—Opinion of United States Court of Appeals for the Eighth Circuit	A-1
B—Judgment of Court of Appeals	A-13
C—Order granting stay of mandate	A-14
D—Order denying motion to set aside order	A-15
E—Appellant's brief in the Court of Appeals	A-16

Cases Cited.

Cross v. United States, 335 F. 2d 987	8, 9
Drew v. United States, 331 F. 2d 85	6

Statutes and Rules Cited.

18 U. S. C., Sec. 641	3
18 U. S. C., Sec. 371	3
18 U. S. C., Sec. 1361	3
18 U. S. C., Sec. 2115	3
28 U. S. C., Sec. 1254 (1)	2
Federal Rules of Criminal Procedure:	
Rule 14	4, 6

IN THE

SUPREME COURT OF THE UNITED STATES.

..... TERM, 1969.

No. .....

JESSE EARL MILLER,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Eighth Circuit.

Petitioner, Jesse Earl Miller, prays that a Writ of Certiorari issue to review the Judgment of the United States Court of Appeals for the Eighth Circuit entered in the above entitled case on May 14, 1969.

OPINION BELOW.

The opinion of the Court of Appeals for the Eighth Circuit is unreported to date, but is reproduced in the appendix to this petition (Appendix A).

JURISDICTION.

The Judgment of the Circuit Court of Appeals was entered on May 14, 1969. The jurisdiction of this Court is invoked under 28 U. S. C., Sec. 1254 (1) (Appendix B).

QUESTION PRESENTED.

Whether Petitioner Miller was materially prejudiced by the joinder of five counts in the indictment returned against him and his trial on said counts over timely and repeated requests for separate trials. Pursuant to Rule 14, Federal Rules of Criminal Procedure.

STATEMENT.

Petitioner Jesse Earl Miller is one of 20 defendants jointly charged, along with eight co-conspirators, in an indictment returned March 31, 1967 in United States District Court, Western District of Missouri. The Indictment alleged a series of post office burglaries that occurred between October 31, 1964 and March 31, 1967 in Missouri, Illinois, Iowa, Indiana, Minnesota, Oklahoma, Kansas, Wisconsin, Arkansas and Tennessee.

Count I of the 37-Count Indictment asserted that petitioner Miller, along with each of the remaining defendants and co-conspirators, entered into a conspiracy in violation of 18 U. S. C., Section 371, to commit offenses in violation of 18 U. S. C. 641, 18 U. S. C. 2115 and 18 U. S. C. 1361. With regard to Count I of the Indictment, a total of 153 overt acts were alleged.

Petitioner Miller was also charged in four separate counts: Count VI, burglarizing the Post Office at Camdenton, Missouri, on February 16, 1965; Count VII, wilfully damaging government property in the Camdenton Post Office; Count XV, burglarizing the Maryville, Missouri, Post Office on May 10, 1965; Count XVI, wilfully damaging government property in the Maryville, Missouri, Post Office. Petitioner was found guilty as charged and received five-year prison terms on each of Counts I and VI, to be served concurrently, and five years on each of Counts XV and XVI, to be served concurrently with each other and concurrently with the sentences imposed on Counts I and VI, and finally ten years on Count VII to be served consecutively to the other sentences, for a total of fifteen years.

At the very outset, Petitioner Miller moved the District Court pursuant to Rule 14, Federal Rules of Criminal Procedure, to sever him from all remaining defendants